

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Performance Measurements and Standards for	)	
Unbundled Network Elements and	)	CC Docket No. 01-318
Interconnection	)	
	)	
Performance Measurements and Reporting	)	
Requirements for Operations Support	)	CC Docket No. 98-56
Systems, Interconnection, and Operator	)	
Services and Directory Assistance	)	
	)	
Deployment of Wireline Services Offering	)	CC Docket No. 98-147
Advanced Telecommunications Capability	)	
	)	
Petition of Association for Local	)	
Telecommunications Services for Declaratory	)	CC Docket Nos. 98-147, 96-98, 98-141
Ruling	)	

**COMMENTS OF BIRCH TELECOM, INC.**

Birch Telecom, Inc., (“Birch”) submits the following comments in response to the *Notice of Proposed Rulemaking* (“NPRM”) issued in the above-captioned docket on November 19, 2001.

**INTRODUCTION**

Birch Telecom, Inc. is a Competitive Local Exchange Carrier (“CLEC”) currently operating in ten states<sup>1</sup> in Southwestern Bell Telephone Company’s (“SWBT”) and BellSouth Communications Corporation’s (“BellSouth”) territories. As a result of

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<sup>1</sup> These states include: Missouri, Kansas, Oklahoma, Texas, Georgia, Tennessee, North Carolina, South Carolina, Kentucky and Mississippi.

Birch's multi-regional experience, Birch has operated in states both before and after a Regional Bell Operating Company ("RBOC") has been granted Section 271 relief by this Commission under the Federal Telecommunications Act of 1996 ("FTA"). In addition, operating in more than one RBOC's region has allowed Birch to assess the differences between SWBT's and BellSouth's Operational Support Systems ("OSS"). Further, Birch has also been able to assess how well each RBOC performs using its distinct OSS in each of the categories typically evaluated by this Commission in multiple, prior § 271 Orders rendered. Needless to say, Birch seeks to define similarities that exist between RBOCs' OSS in an effort to create efficiencies in Birch's internal ordering systems as often as possible. The reality is that while similarities do exist, Birch has found that at least the two RBOC's systems it interfaces with on a daily basis are unique and distinct from one another, often resulting in varying performance by each RBOC under similar generalized categories of measurements adopted to gauge the same.

Birch attempts to be the most efficient telecommunications provider possible. To that end, Birch devotes resources dedicated to evaluating an RBOC's performance under the various performance plans in place at the state level. Birch deems these dedicated resources integral to pinpointing the overall provisioning efficiencies afforded by an RBOC's OSS, that in turn result in Birch provisioning efficiencies and hopefully reliable, seamless conversions for Birch end users. Moreover, Birch's dedicated performance measurement resources ensure that in a pre-271 environment, an RBOC's systems are being geared toward affording parity service to CLECs, and in a post-271 environment, the same levels of parity service are maintained.

The reason this type of background and explanation has been included herein is to underscore the importance even a small CLEC like Birch places upon the performance measurements to which an RBOC is held in its role as “vendor/competitor.” This emphasis is not placed merely to track the amount of money collected in remedy payments, but rather, to truly determine if an RBOC is providing parity service to Birch. Birch has been and continues to be a very active CLEC in nearly every state performance measurement proceeding in which it operates, including actively participating in the ongoing six-month reviews in Texas and Georgia. Monitoring and ensuring that an RBOC is performing to levels that provide CLECs at or near parity service with the RBOC’s retail organizations is critical to the continued development of local competition as envisioned by Congress in the FTA. It is especially critical when the RBOCs are forced to be wholesalers and competitors at the same time, and when the vast majority of the local telecommunications market continues to be dominated by the RBOCs in their position as legacy monopolists. As the competitive market continues to evolve and eventually achieves the goal of meaningful telecommunications competition, the natural result will be that an RBOC’s performance will have leveled off at a plateau capable of maintaining parity between its own retail organization and CLECs. It will be at that point in the future when a much more streamlined framework with far fewer performance measurements will be as effective as the current framework at the state level exists today.

### **OBJECTIVES OF THIS NPRM**

It seems that two of the most important objectives of this Commission are to gain regulatory efficiencies in the area of performance measurements by streamlining information and evidence, while at the same time reducing the regulatory burden of

dominant carriers. Birch asserts that information gathered through this NPRM will support Birch's contention that at this stage in the evolution of the competitive telecommunications market, state commissions and RBOCs should continue to collaborate on performance measurement plans and streamline the existing plans on a regional basis. Birch believes that a handful of measurements will, at some point in time, effectively track performance for the entire telecommunications sector. However, the point must also be raised that not every RBOC is currently performing at a level that would allow for a drastic reduction in measurements today. In fact, many different dynamics are present that should persuade this Commission not to establish a "one size fits all" strategy at this time. It is therefore important to discuss the purpose and current role of performance measurement plans prior to concluding that the adoption of one set of National Standards is appropriate at this time.

### **PURPOSE OF PERFORMANCE MEASUREMENT PLANS**

The purpose of performance measurements, as used in today's telecommunications environment, can be categorized at a high level as follows: 1) to detect discrimination; 2) to determine compliance with the FTA; 3) to remedy poor performance of an RBOC that fails to provide parity service to a competitor; and 4) to provide an avenue to address constantly changing markets and/or products. It is critical to understand how the foregoing categories have been developed to ensure that not only an RBOC's market is open to its competitors, but also that such markets are irreversibly open to competitors and able to sustain meaningful competition.

In terms of an RBOC's performance, discrimination can occur on both an intended and unintended basis. Intended discrimination involves performance or

designed processes that are intended to protect a monopoly market share or to ensure control of new markets and/or products. Unintended discrimination occurs as a result of a flawed system design or flawed processes that result in a disadvantage to users of such systems or processes.

Another key purpose of performance measurement plans is to determine compliance with the FTA. Simply put, performance measurement results are probative proof of an RBOC's compliance with the Act. If an RBOC is achieving the standards set through performance measurement plans, given a well defined set of performance measurements, measuring the correct performance, and assurance of data integrity, many of the Act's checklist items under Section 271<sup>2</sup> will be satisfied. From a CLEC's perspective, a more important aspect of this second purpose is to ensure continuing compliance by remedying poor performance or discrimination. Without the pre-271 approval microscope in the post-271 environment, RBOCs have little, if any, incentive to "play fair" with their competitor-customers. Monetary remedies associated with performance measurement plans are the only meaningful deterrent to backsliding by an RBOC.

Through its operation in both SWBT's and BellSouth's regions, Birch has found that only performance measurements with penalties attached for poor performance are focused on by the RBOCs and that an RBOC's operational personnel are only interested in ensuring compliant performance to forego penalty payments. This point is crucial in any analysis that is undergone with respect to this NPRM as vastly reducing the number of measurements to which an RBOC is required to perform adequately, at this juncture in

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<sup>2</sup> 47 U.S.C. § 271.

the evolution of the competitive telecommunications market, will certainly have a negative impact on RBOC performance and consequently, competition.

It remains a fact that RBOCs utilize more manual intervention to process CLEC orders than to process an RBOC's own retail orders. A portion of the well-developed state performance measurement frameworks, as compared to the eleven proposed measures in the NPRM, were implemented to ensure that the manual processing of CLEC orders does not adversely affect the end result of converting an end user from an RBOC to a CLEC. Although many of these measurements may appear unnecessary, Birch has found that such assurances drive an RBOC's performance to acceptable levels that ultimately allow a CLEC to remain viable given the successful operational framework in place.<sup>3</sup> Reducing the number of measurements regarding an RBOC's manual processes would likely result in disincenting an RBOC to achieve more automation (because its manual processes are no longer measured or remedied) to process CLEC orders, resulting in worse performance that is no longer measured. Although in its sixth year, the transition to a fully competitive telecommunications marketplace is still in its infancy. Birch asserts that eliminating critical performance measurements designed to incent an RBOC to improve its wholesale systems and processes to rely less on manual intervention would be grossly premature.

The final high-level purpose of performance measurement plans is to provide an avenue to address constantly changing markets and/or products. The most glaring example of a new, high demand product that has been impacted by performance

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<sup>3</sup> A key example of a performance measurement that has been implemented to ensure that an RBOC's manual processes do not substantially interfere with a CLEC end user's overall conversion experience is the Service Order Accuracy measurement. This is a measurement that is included in many

measurements, or the lack thereof, is Digital Subscriber Line (“DSL”) services. It is undeniable that high speed, integrated services such as DSL are of the most coveted telecommunications products offered today. Although performance measurements do currently exist to track an RBOC’s performance in the provisioning of DSL service to CLECs, these measurements have taken time to develop. The lag time in developing standards for DSL products has led to RBOCs like SWBT and BellSouth focusing on increased automation in the provision of their chosen DSL flavor, ADSL, resulting in provisioning ease and accuracy. Meanwhile, CLECs that choose another xDSL flavor continue to encounter excessive manual processes in the provision of such services, resulting in time and resource intensive provisioning efforts that ultimately delay an end user’s receipt of a CLEC’s DSL service. Had clear performance measurements been adopted when DSL first became apparent on the telecommunications front, competitors would have at least been given a fighting chance to compete with the RBOCs’ DSL services.<sup>4</sup>

### **CURRENT STATE OF AFFAIRS FOR PERFORMANCE MEASUREMENT PLANS**

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state performance measurement frameworks but has been omitted from the National List included in the NPRM.

<sup>4</sup> See SBC Third Quarter Investor Briefing, issued October 22, 2001: SBC Third Quarter Investor Briefing - 10/22/2001: Approximately 1.2 million DSL Internet lines in service at the end of the quarter, compared with 516,000 at the end of the third quarter a year ago. SBC had a net gain of 150,000 DSL Internet lines in the quarter, compared with 83,000 added in the second quarter this year.

See also January 3, 2002 Press Release of BellSouth Communications Corporation: BellSouth Corp. (NYSE: BLS) today announced that it has nearly tripled its DSL customer base with 620,500 customers in 63 total markets. This marks an increase of 405,500 customers in 2001, which represents a growth rate of 188%, the highest of any DSL or cable provider in the country. The success of this initiative is largely due to BellSouth's focus on customer service and its execution of the most aggressive DSL deployment strategy in the industry, increasing the company's potential customer base from 45% to 70% of households in the markets that BellSouth serves.

Actual performance measurements and associated remedy plans vary between RBOC territories. As the NPRM notes, the state commissions have asserted the lead role in developing and monitoring performance measurements.<sup>5</sup> In some of the best scenarios at the state level, the same performance measurements and any modifications thereto are utilized throughout an entire Incumbent Local Exchange Carrier's ("ILEC") territory. For example, the performance measurement plan developed for Southwestern Bell Telephone Company is used in Texas, Kansas, Oklahoma, Missouri and Arkansas, or SWBT's five-state region. Birch doubts that it is any coincidence that relying on the identical performance measurement plan throughout the five-state region has resulted in SBC gaining 271 relief in all five of its SWBT states. The benefits of utilizing the same performance measurement plan on a regional basis are many.

The objectives of the Commission as promulgated in the NPRM are achieved with this regional approach to performance measurement plants. The measurements and data reported in conjunction thereto become streamlined throughout an entire region. This is a logical result given the fact that SBC's OSS has been deemed regional by its own admission and also by this Commission.<sup>6</sup> Thus, it becomes less of a regulatory burden for SBC to implement and adhere to the exact same performance measurement plan and modifications for each state within a particular ILEC's region.

Theoretically, SWBT's OSS performs the same way throughout the specified region, and SWBT has already voluntarily implemented the performance measurement plan developed in the Texas 271 collaborative process throughout the rest of its territory

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<sup>5</sup> See NPRM at ¶ 4.

<sup>6</sup> See *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region,*



thereby gaining 271 relief much quicker in the states outside of Texas. SWBT clearly had the option to introduce and implement different performance measurements in its other states of operation than those adopted in Texas, but it chose not to do so. Rather, SWBT presumably recognized the efficiencies of streamlining its performance measurement framework on a regional basis and in fact was successful in obtaining both CLECs' and regulators' approval of the regional implementation of the Texas-developed plan. No doubt it exponentially increased SBC's odds of gaining 271 relief from state and federal regulators once the Texas model was approved.<sup>7</sup> It is difficult to entertain the RBOCs' cry for less regulatory burden than the regional performance measurement model actually proposed and utilized by SBC in the SWBT region as it is clearly a regulatory innovation geared toward streamlining its resources, while simultaneously attaining its regulatory objective of 271 approval around SWBT's region. It is an innovation that no other RBOC has been as successful in employing.

In addition to creating resource and regulatory efficiencies for SWBT, the regional performance measurement model has resulted in resource efficiencies for both CLECs and state commissions. That is, with one performance measurement framework to monitor for an entire region, it is much easier for Birch to detect performance problems and/or RBOC system flaws impacting Birch's ability to provision at or near parity with SWBT's retail organization. Typically, a problem with one performance measurement or system is evident in each SWBT state. The uniform performance measurement plan

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*InterLATA Services in Kansas and Oklahoma*, Memorandum Opinion and Order, 16 FCC Rcd 6237 ¶ 6, 17 (2001) (“*Kansas/Oklahoma Order*”).

<sup>7</sup> See *Kansas/Oklahoma Order* at ¶ 6 and *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Arkansas and Missouri*, Memorandum Opinion and Order, ¶ 3, November 16, 2001 (“*Missouri/Arkansas Order*”).

allows Birch to utilize its performance measurement monitoring resources on a regional, rather than state-by-state basis.

The regional performance measurement plan approach utilized in the SWBT region also seems to streamline the regulatory process for each state commission within the region. For purposes of their state 271 proceedings, the commissions in Kansas, Oklahoma, Missouri and Arkansas benefited tremendously from the extensive resources devoted by the Texas Public Utility Commission, SWBT and the CLECs in developing the performance measurement plan through a collaborative process that yielded a plan that was easily portable to the rest of the states within the SWBT region. In addition, under the SWBT performance measurement plan developed in Texas, a review of the plan is scheduled to occur every six months. It is important to note that the commissions of Kansas, Oklahoma, Missouri and Arkansas directly participate in the six-month review of the SWBT performance measurement plan held before the Texas Commission. This process allows the state commissions, SWBT and the CLECs to focus their resources into one collaborative review in an effort to uncover the modifications that need to be made to the plan to reflect the current competitive environment. This Commission will be pleased to note that all relevant parties have been able to agree in recent six-month reviews on various measurements that can be eliminated from the framework as the value of the measurement is no longer relevant as a result of market conditions. Thus, the collaborative, regional process employed in the SWBT states is geared to lessen the number of measurements as natural effects of a competitive environment take hold.

As noted previously, Birch also operates in the BellSouth region. As BellSouth has not chosen to implement the regional performance measurement plan for its nine

states, Birch expends far more resources than necessary to monitor and weigh in on the various plans proposed in the various BellSouth states. The first performance measurement plan in the BellSouth region was devised in conjunction with the Georgia Public Service Commission. When other states within the region began adopting their own performance measurements, neither BellSouth nor the CLECs proposed the Georgia plan. Rather, the Georgia plan was derived from a formal hearing, as opposed to the collaborative process utilized in Texas. The unfortunate but very possible result is that there will be nine different performance measurement plans in the nine different BellSouth states. Such a duplicative effort will not only deplete valuable CLEC and BellSouth resources, but the nine commissions' resources as well. This proceeding can be used to streamline performance measurement plans to bring regional conformity to them, thereby vastly reducing an RBOC's regulatory burden, expenditure of unnecessary resources by state and federal regulators, and meeting other objectives of the NPRM.

### **THE VALUE OF THE STATE PLANS IN FURTHERING COMPETITION**

The value of all of the resources various states have devoted to performance measurement plans is immeasurable. Although Birch acknowledges that local telecommunications competition is still in its early stages, it is clear that competition would likely not exist in any market without the detailed performance measurements developed at the state level. In markets where such detailed plans exist, it is evident that an environment has been created wherein an RBOC can be a high performing vendor/business partner as well as a competitor to CLECs.

Many of the state standards have been refined through collaborative workshops to ensure the exact processes or systems are being measured correctly and completely. The result has been a set of business rules that are very closely aligned to a specific RBOC's systems or processes.<sup>8</sup> Birch recognizes that this Commission does not intend for the proposed National Standards "to unduly interfere with the operation of these markets as competition develops or with corresponding state policies."<sup>9</sup> In fact, Birch believes that applying *only* the proposed National Standards would be a giant step backward from the current specificity of the measurements developed at the state level. The business rules associated with the proposed National Standards would need to be flexible enough to be applied to many different RBOCs that use many different systems and processes. The proposed National Standards will undoubtedly create new and different interpretations of the business rules that the state plans may have already effectively covered. This "wiggle room" allows RBOCs to mask discrimination by favorable interpretations of the business rules. The self-reporting nature of performance measurement plans already creates an incentive to find ways to mask poor performance or discrimination. Vague business rules that do not closely relate to the RBOCs' specific processes and procedures only increases the incentive.

The proposed National Performance Standard framework, which currently only consists of eleven measurements, may not be able to account for the difference in the development or state of competition in each state. The short list may be able to account for discrimination in states where competition and the OSS is more developed (possibly

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<sup>8</sup> For example, Texas measurement 35, which captures trouble within 10 days of conversion to CLEC UNE-P service, is specifically designed to capture trouble reports that occur on the day of conversion.

<sup>9</sup> NPRM at ¶ 7.

New York or Texas), but the data produced in conjunction with the short list is likely not enough information to determine an RBOC's compliance in a pre-271 environment, or the majority of the states. A recent example includes the "LMOS database issue" debated in the context of the SWBT-Missouri 271 applications. Whether or not SWBT had been making timely updates to its LMOS legacy system, impacting a variety of performance measurements, became a hotly contested issue in the proceeding.<sup>10</sup> The primary evidence used by SWBT to prove its compliance was a performance measurement that tracks timely updates to its legacy systems. Absent the current proof provided by performance measurement data, SWBT may not have been able to prove the LMOS database is updated in a non-discriminatory manner.<sup>11</sup> The proposed list of National Standards would not have captured or controlled the discriminatory problem resulting from the LMOS problem.

Another way in which the state performance measurement plans add value is that the processes used at the state level allow small carriers to actively participate in performance measurement proceedings. Currently at the state level, all carriers have the ability to participate in collaborative sessions and provide input to changes that may directly impact a small carrier's business. While the same small carriers can participate at a national level, many of the carriers' issues would likely involve a particular RBOC's systems or processes throughout a region, or in a particular state. A smaller carrier would likely have a greater influence on issues at a state or regional level versus trying to address specific issues on a national front. Again, variances in RBOCs' systems,

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<sup>10</sup> See Missouri/Arkansas Order at ¶¶ 15-36.

<sup>11</sup> It is important to note that the Texas Public Utility Commission ordered an audit of the LMOS database issue in Project No. 20400, Order No. 33, issued June 1, 2001. Several of the other states in the SWBT region have requested that their states' data be included in the audit.

processes and procedures make it difficult, from a logistics standpoint, to address particular performance measurement issues Birch might have with a particular RBOC.

It is modifications to any performance measurements or standards that drive an improvement in an RBOC's performance, and as mentioned above, RBOCs tend to operate in a manner that meets the performance measurement objectives. Other than specific changes to performance measurements, CLECs have little assurance that an RBOC's performance will improve. Moreover, larger carriers (both RBOCs and CLECs) could potentially dominate a national framework because of their vast resources, thereby setting standards that only allow larger companies to flourish and possibly impede growth of smaller carriers like Birch.<sup>12</sup>

#### **MEASUREMENTS SHOULD INCLUDE UNE COMBINATIONS**

At Paragraph 28 of the NPRM, the Commission requests comment on whether any adopted measures should address Unbundled Network Element ("UNE") combinations. Quite simply, Birch believes such measurements should be adopted through this proceeding either at the national level if the Commission implements that approach, or at the regional level, the approach recommended by Birch herein.

There has been a significant amount of debate about the importance of the Unbundled Network Element Platform ("UNE-P") to what little market penetration has been able to be achieved by competitive carriers. It is impossible to analyze the levels of competition in this country without recognizing the contribution UNE-P has made to the

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<sup>12</sup> For example, a standard could be derived that required an RBOC to only measure an EDI interface versus measuring its proprietary interfaces used by many smaller carriers. This example could result in RBOCs eliminating proprietary ordering interfaces altogether. Such a result would be a barrier to entry and

effort. A review of the testimony of expert witnesses around the country proves the point.<sup>13</sup> It would be an injustice to fail to include UNE-P with performance measurements adopted at the national level and/or the regional level given that the majority of competitive market penetration today is achieved utilizing the platform.

### **THE BIRCH PROPOSAL: THE REGIONAL APPROACH**

Birch submits the following proposal to be considered as an alternative to the creation of only one national framework.

- ◆ Through this proceeding, core performance measurements should be developed for a defined set of key measurements. This core set of measurements should be stringent enough to elicit the level of performance that is necessary to sustain meaningful competition. In addition, these core measurements should not infringe upon any additional measurements developed at the state level or developed regionally. The core set of measurements should serve as a guide to states in developing any new performance measurement plans, or analyzing any modifications to existing plans. The core should also ensure a balance between the interests of the RBOCs and CLECs, with the goal of working toward a point in time in the future when the competitive telecommunications market has matured and a succinct list of performance measurements will adequately monitor an RBOC's operational performance.
- ◆ Any national standards should be developed collaboratively by the industry and various State and Federal Commission input. Birch does not propose any specific business rule language at this time since Birch's experience only includes operations from the BellSouth and SWBT territories. It would be difficult for Birch to propose business rule language that will be used to measure other RBOC systems and processes for which Birch has no experience.

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create exorbitant overhead costs associated with maintaining an EDI interface that could preclude small CLECs from starting or staying in business – a result certainly not intended by the creation of this NPRM.

<sup>13</sup> *Petition of MCIMetro Access Transmission Services, LLC, Sage Telecom, Inc., Texas UNE Platform Coalition, McLeod USA Telecommunications Services, Inc. and AT&T Communications of Texas, L.P. for Arbitration with South western Bell Telephone Company under the Telecommunications Act of 1996*, Project No. 24542, Direct Testimony of Joseph Gillan on Behalf of The Texas UNE-P Coalition, AT&T Communications of Texas, L.P. and McLeod Telecommunications Service, Inc., p. 24, filed December 7, 2001.

- ◆ Through this proceeding, guidelines should be established to encourage parties to form a regional performance measurement framework that will govern the review and oversight of the framework. The regional performance measurements will enable standards to continue evolving down the current path of specificity with respect to individual RBOCs' systems and processes. Consistent and timely reviews of such regional plans should be maintained.
- ◆ It would be beneficial to encourage or possibly assign larger state commissions to assert the lead role in oversight of the regional performance measurement framework, with a structure that allows for state commissions and CLECs from other states to be involved in the collaborative reviews. An obvious example is the leading role the Texas Public Utility Commission has undertaken in overseeing the development and modification of the SWBT performance measurement framework throughout its five-state region.
- ◆ The regional performance measurement framework approach is designed to allow for the development of very specific and very clear business rules that closely align with an RBOC's OSS. This approach should meet many of the goals desired by a national framework while also balancing the delicate state of the telecommunications industry and the current reliance on performance measurements to achieve high levels of performance from an RBOC. The regional approach, coupled with mandatory reviews, also serves as an avenue for the ultimate goal of reducing the performance reporting requirements to a few essential measurements.

## **CONCLUSION**

Birch commends the Commission's effort to streamline the performance measurement process through this proceeding. As explained herein, Birch is intimately involved in the performance measurement process in each state in which it operates and appreciates the opportunity to provide its perspective based on practical experience. The goal of streamlining performance measurements into a "national shortlist," only, is unrealistic at this juncture. Each RBOC's OSS, processes and procedures seem distinct enough to warrant factoring that piece into the equation. Although Birch cannot speak to any RBOCs but SWBT and BellSouth, experience with those RBOCs supports the prior conclusion. All of the intricacies involved in developing performance measurement plans



that actually serve to allow for meaningful competition have been developed collaboratively with RBOCs, CLECs and state commissions. Birch believes it would be extremely difficult to replicate the state processes, even in an effort to streamline, only through a paper proceeding. If a national list is adopted as a result of this proceeding, Birch would recommend that collaborative sessions be held so all parties have an opportunity to participate in the development of such a plan. In the alternative, and as Birch has proposed herein, the regional performance measurement plan, as utilized by SWBT in its five-state region, should be strongly considered as the proper approach to serve the stated purposes in the NPRM.

WHEREFORE, Birch Telecom, Inc. respectfully requests that these comments be considered by the Commission in its determination of the issues presented herein.

Respectfully submitted,

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